IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.392 OF 2005

Ms.Nayana Pradeep and others. ... Petitioners.

vs.

Mrs.Sarah Lawyer. .... Respondent.

Mr.Sanjay Jain i/b. Bharat Joshi, for Petitioners.

Mr.K.D.Parikh i/b. M/s.Kanga & Co. for Respondent.1.

CORAM: D.K.DESHMUKH,J.

DATED: 17th January, 2006

P.C.:-

1. At the outset an objection is raised to the maintainability of the petition on the ground that the petition is filed beyond the period of limitation provided by Section 34 of the Arbitration and Conciliation Act. Admittedly the Award was passed on 25.2.2004. Admittedly the Award was served by the Arbitrator on the Lawyer appearing for the petitioners before the learned Arbitrator and it was

admittedly received by the Lawyer on the date between 25.2.2004 and 1.3.2004. The present petition has been filed on 6.5.2005. According to the petitioners, service of the Award on the lawyer is not the service on the petitioners. The requirement of Section 31(5) of the Arbitration and Conciliation Act,1996 is that delivery of copy of the Award should be on a party. Relying on the judgment of the Supreme Court in the case "Union of India (UOI) Vs.Tecco Trichy Engineers and Contractors, AIR 2005 SUPREME COURT 1832" he submitted that the service of the Award on the lawyer is not the service of the Award on the party. On the other hand on behalf of the Respondent, it is submitted that the petitioners were represented by the Lawyer before the Arbitral Tribunal. The authority of the lawyer is to act for and on behalf of the party definitely during the pendency of the arbitral proceedings. In terms of provisions of the Arbitration and Conciliation Act the mandate of the Arbitrator comes to an end after the Award is made and is communicated and delivered to the parties. Therefore, at the time when the Award was delivered to the Advocate for the petitioners, the Arbitrator's mandate was in force and therefore, delivery of the copy of the Award on the Advocate was the delivery of the Award on the party i.e. petitioners. The learned Counsel appearing for the respondent relied on the judgment of the Supreme Court in the case of "East India Hotels Ltd. Vs. Agra Development Authority, AIR 2001 SC 1481" and specially on the observation of the Supreme Court

in paragraph no.13. In my opinion, delivery of the copy of the Award to the Advocate appearing for the party would be the delivery of the Award on the party itself, and therefore, the period of limitation should be computed from the date on which the party and/or his Advocate is communicated with the Award and therefore, the present petition is filed beyond the period of limitation. The petition therefore, cannot be entertained. The petition is disposed of.